

BILL ANALYSIS

C.S.H.B. 3092
By: Rose
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Adult protective services (APS) currently investigates allegations of abuse, neglect, or financial exploitation of an elderly or disabled individual and, if an investigation verifies that abuse, neglect, or exploitation occurred, provides protective services to the individual. Interested parties assert that a new risk assessment tool being implemented by APS predicts the likelihood of future harm and can determine if a client is at a low, moderate, or high risk of future harm. However, because APS services may be provided only to an individual for whom a finding of abuse, neglect, or exploitation has been made, an individual who has a moderate or high risk level according to the tool but for whom such finding has not been made is not eligible to receive APS services. The parties contend that a pilot program under which services are provided based on a risk level regardless of a finding of abuse, neglect, or exploitation is appropriate. C.S.H.B. 3092 provides for such a pilot program.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3092 amends the Human Resources Code to require the Department of Family and Protective Services (DFPS), using existing resources, to develop and implement a pilot program that evaluates the feasibility and associated benefits of providing protective services when an elderly person or person with a disability has been determined to be at risk of future harm from abuse, neglect, or exploitation, using the risk assessment criteria developed by the executive commissioner of the Health and Human Services Commission, but who is not in a state of abuse, neglect, or exploitation. The bill specifies that statutory provisions regarding management review by an adult protective services supervisor following certain investigations of certain recidivist cases do not apply to reports considered under the pilot program. The bill authorizes DFPS to terminate the pilot program if the executive commissioner determines the termination is appropriate and establishes that the pilot program terminates August 31, 2017, unless the program is terminated before that date. The bill's provisions establishing the pilot program expire September 1, 2019.

C.S.H.B. 3092 requires DFPS to develop and implement the pilot program not later than January 1, 2016. The bill requires DFPS to prepare and issue a report of preliminary findings from the program to the governor, lieutenant governor, and the standing legislative committees with primary jurisdiction over health and human services not later than December 15, 2016. The bill

requires DFPS, not later than December 15, 2017, to submit a final report on the pilot program to such persons and entities that contains an evaluation of the feasibility and benefits of the pilot program, any additional findings DFPS determines appropriate, and recommendations for the continuation, elimination, or expansion of the program.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3092 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill

INTRODUCED

SECTION 1. Sections 48.004, Human Resources Code, is amended to read as follows:

Sec. 48.004. RISK ASSESSMENT. (a) The executive commissioner by rule shall develop and maintain risk assessment criteria for use by department personnel in determining whether an elderly or disabled person is in imminent risk of abuse, neglect, or exploitation or in a state of abuse, neglect, or exploitation and needs protective services. The criteria must:

- (1) provide for a comprehensive assessment of the person's:
 - (A) environmental, physical, medical, mental health, and financial condition;
 - (B) social interaction and support; and
 - (C) need for legal intervention; and
- (2) specify the circumstances under which a caseworker must consult with a supervisor regarding a case.

(b) Notwithstanding section 48.002(a)(5), the department shall, out of funds appropriated, implement a pilot program to evaluate the feasibility and any associated benefits of providing protective services when an elderly or disabled person has been determined to be at risk of future harm from abuse, neglect, or exploitation using the risk assessment criteria described in subsection (a). The provision of protective services in an area in which the pilot has been implemented does not require that an elderly or disabled person be in a state of abuse, neglect, or exploitation.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter E, Chapter 48, Human Resources Code, is amended by adding Section 48.212 to read as follows:

Sec. 48.212. PILOT PROGRAM TO PROVIDE PROTECTIVE SERVICES TO PERSONS AT RISK OF FUTURE HARM.

(a) Notwithstanding any other law, including Section 48.002(a)(5), the department shall, using existing resources, develop and implement a pilot program that evaluates the feasibility and associated benefits of providing protective services when an elderly person or person with a disability has been determined, using criteria developed under Section 48.004, to be at risk of future harm from abuse, neglect, or exploitation, but who is not in a state of abuse, neglect, or exploitation.

(b) Section 48.1523 does not apply to reports considered under the pilot program developed under this section.

(See Section 2. (part), below)

(c) The department may terminate the pilot program if the executive commissioner determines the termination is appropriate. The pilot program terminates August 31, 2017, unless the program is terminated before that date in accordance with this subsection.

(See Section 3, below.)

(d) This section expires September 1, 2019.

Section 2. (part) The department shall implement the pilot program described in section 48.004(b), Human Resources Code, not later than January 1, 2016

SECTION 2. Not later than January 1, 2016, the Department of Family and Protective Services shall develop and implement the pilot program required under Section 48.212, Human Resources Code, as added by this Act.

and may be conducted through August 31, 2017.

(See Section 48.212 (c), as added by SECTION 1, above.)

Section 2. (part) DFPS shall submit a report of preliminary findings from the program to the Governor, Lieutenant Governor, and appropriate legislative committees having oversight over the Adult Protective Services division not later than December 15, 2016 and on any additional findings not later than December 15, 2017.

SECTION 3. (a) Not later than December 15, 2016, the Department of Family and Protective Services shall prepare and issue a report of preliminary findings from the pilot program required under Section 48.212, Human Resources Code, as added by this Act, to the governor, the lieutenant governor, and the standing legislative committees with primary jurisdiction over health and human services.

(b) Not later than December 15, 2017, the Department of Family and Protective Services shall submit a final report on the pilot program to the persons and entities described under Subsection (a) of this section. The report must include:

- (1) an evaluation of the feasibility and benefits of the pilot program;
- (2) any additional findings the department determines appropriate; and
- (3) recommendations for the continuation, elimination, or expansion of the pilot program.

Section 3. Subsection (b), section 48.004, Human Resources Code, expires August 31, 2017.

No equivalent provision. (But see SECTION 1 above)

No equivalent provision.

SECTION 4. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Section 4. This Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.